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Attorney for Defendant
Continental Casualty Company

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

ROBERT BRAACH, and BRAACH
ACCOUNTING SERVICES, P.C.

Plaintiffs,

-VS-

CNA INSURANCE, a/k/a
CONTINENTAL CASUALTY
COMPANY,

Defendant.

Cause No. _____

NOTICE OF REMOVAL

TO THE CLERK OF THE ABOVE-ENTITLED COURT:

PLEASE TAKE NOTICE that Defendant Continental Casualty Company (“Continental Casualty”) hereby removes to this Court the state court action described below:

1. On September 9, 2017, an action was commenced in the Fourth Judicial District Court, Missoula County, Montana, captioned *Robert Braach and Braach Accounting Services, P.C. v. CNA Ins., a/k/a Continental Casualty Company*, Cause No. DV 17-981.
2. Defendant Continental Casualty was served with the Complaint on February 16, 2018 at 10:52 a.m.
3. Having received notice of the action less than 30 days ago, Continental Casualty's notice of removal is timely.
4. Attached are a copy of the Complaint and Summons in this case (Exhibit A), which constitute all the process, pleadings, and orders sent to Defendant in the state court action.
5. This action is a civil action of which this Court has original jurisdiction under 28 U.S.C. § 1332, and is one which may be removed to this Court by Defendant Continental Casualty pursuant to the provisions of 28 U.S.C. § 1441(b) in that it is a civil action between citizens of different states and the matter in controversy exceeds the sum of \$75,000, exclusive of interest and costs. Plaintiffs seek insurance proceeds in excess of the jurisdictional limits.

6. Plaintiff Robert Braach asserts in the Complaint that he has lived in Missoula, Montana, for decades and that is the place he does business. As such Plaintiff Braach is a citizen and resident of Montana.
7. According to the Complaint, Plaintiff Braach Accounting Services, P.C. is an accounting business located in Missoula and doing business until 2015. According to the Business Services filings with the Montana Secretary of State, Braach Accounting Services, P.C. registered as a Montana corporation on April 1, 2005, and is now dissolved. Plaintiff Braach Accounting is not a proper party to this suit as the corporation no longer exists, but during its existence, Braach Accounting was a resident and citizen of Montana.
8. Defendant CNA Insurance is not a legal entity capable of being sued. “CNA” is a service mark registered with the United States Patent and Trademark Office which is used in insurance underwriting and claims activities by certain insurance companies, including Continental Casualty Company. Because CNA is not a legal entity, it does not have a state of incorporation or principal place of business for purposes of this removal petition. See U.S.C. §1441(b)(1).

9. Defendant Continental Casualty Company (incorrectly named as “CNA Insurance a/k/a Continental Casualty Company”) is a stock casualty insurance company organized pursuant to the laws of the state of Illinois with its principal place of business in Chicago, Illinois. As such, Continental Casualty is a citizen and resident of Illinois.
10. Subject matter jurisdiction is based on 28 U.S.C. Section 1332. This action involves a controversy between citizens of different states. Plaintiffs are citizens and residents of Montana; Defendant Continental Casualty is a citizen and resident of Illinois and Delaware.
11. In the Complaint, Plaintiff seeks damages in excess of \$75,000. Plaintiff seeks the underlying settlement of \$75,000, (Complaint, ¶17), costs of defense of the underlying suit (Complaint, ¶6), damages to be proven at trial (Complaint, p. 7), and policy proceeds up to \$1,000,000 (Complaint, ¶3). The amount in controversy exceeds \$75,000.00.
12. Venue is proper in this District and Division as the underlying litigation which is the subject of this declaratory action is filed in this District and the Plaintiff resides in Missoula, Montana.
13. Subject matter jurisdiction is alternatively based upon the Declaratory Judgment Act, 28 U.S.C. Section 2201 (a).

WHEREFORE, Defendant Continental Casualty prays that this action be removed to the United States District Court for the District of Montana.

DATED this 2nd day of March, 2018.

SHEEHY LAW FIRM

By /s/Martha Sheehy

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